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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,871	09/18/2003	Jean-Pascal Zambaux	ATMI-657	6762
23448	7590	02/24/2006	EXAMINER	
INTELLECTUAL PROPERTY / TECHNOLOGY LAW			BIANCO, PATRICIA	
PO BOX 14329			ART UNIT	
RESEARCH TRIANGLE PARK, NC 27709			PAPER NUMBER	
			3761	
DATE MAILED: 02/24/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/665,871

Applicant(s)

ZAMBAUX, JEAN-PASCAL

Examiner

Patricia M. Bianco

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-47 is/are allowed.
- 6) ☒ Claim(s) 1,2,5 and 6 is/are rejected.
- 7) ☒ Claim(s) 3,4,7 and 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

In the amendment filed 12/07/05, claims 1, 2, 5, and 8-47 were amended, a new figure- figure 6- was submitted, and a portion of the specification was amended to provide reference numerals for new figure 6.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 5, & 6 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Walter (Re. 25,129) in view of Osborn et al. (6,068,899). Walter discloses an apparatus having multiple containers for holding a medical fluid, such as blood or other biological products, and then dispensing the fluid from the containers. The flexible bag container (10) has a connector that comprises a needle cannula (16) surrounded by a tubular sheath/diaphragm (17). The connector is said to be sealed for protection of the cannula and outlet from bacterial contamination. It is inherent that air (i.e. gas) will be within the sheath and remain there until the seal is broken and that the air/gas would be sterile, or at least about more than 95%. As shown in figure 7, the connector may be further connected to a second connector^{46/47}, which is in turn connected to a second container (42). Walter discloses the invention substantially as

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claimed, however, fails to disclose specifically that the air/gas has a pressure greater than about 1 atm or greater than about 5 millibars.

Osborne discloses the inclusion of a gas, such as nitrogen or argon, having a pressure of greater than 1 atmosphere (atm) to render the assembly sterile prior to use. It would have been obvious to one having ordinary skill in the art at the time the invention was made to choose a pressure for the air/gas within the sheath to be greater than about 1 atm or preferably greater than 1.05 atm. Since 1 atm is equal to 1013.25 millibars, the limitation of greater than 5 millibars is also met. It would have been obvious to modify the container of Walter to have the pressure be greater than 1 atm as taught by Osborne to maintain sterility prior to use, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Allowable Subject Matter

Claims 3, 4, 7, & 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

With respect to claims 4, 7 & 8, the subject matter of the independent claims could either not be found or was not suggested in the prior art of record. The subject matter not found was the membrane having a slit or cut that does not penetrate completely through the membrane in combination with the other elements (or steps) in the claims.

With respect to claim 3, the subject matter of the independent claims could either not be found or was not suggested in the prior art of record. The subject matter not found was the apparatus having a latch coupled between the container and the hollow connector in combination with the other elements (or steps) in the claims.

Claims 9-47 are allowed over the prior art of record. The subject matter not found was the apparatus, system, or kit having a membrane that has partial slit or cut that does not penetrate completely through the membrane or a latch coupled between the container and the hollow connector in combination with the other elements (or steps) in the claims.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia M. Bianco whose telephone number is (571) 272-4940. The examiner can normally be reached on Monday to Friday 9:00-6:30, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

February 21st, 2006

Patricia M Bianco
Primary Examiner
Art Unit 3761


PATRICIA BIANCO
PRIMARY EXAMINER